THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.12350 OF 2001

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DATED: 24-04-2006

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BETWEEN

Mohd. Ziauddin

S/o. Late Mohd. Mumtazuddin,

R/o. H.No.22-3-371,

Miralam Mandi,

Hyderabad.

...PETITIONER

AND

Assistant City Planner,

Municipal Corporation of Hyderabad,

Circle No.1, Sardar Mahal,

Hyderabad and another.

...RESPONDENTS

ORDER:

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Petitioner seeks a Writ of Mandamus to declare the inaction of the respondents in paying compensation for his premises Nos.22-3-376 and 22-3-377 situated at Miralam Mandi, Hyderabad as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the owner of the premises bearing Nos.22-3-376 and 22-3-377 situated at Miralam Mandi, Hyderabad and the said premises was sought to be demolished by the respondent corporation without following due process of law and without paying compensation.

Therefore, the petitioner filed WP.No.2401 of 1999 questioning the proposed demolition of his premises and the said writ petition was disposed of with a direction to the respondents not to demolish the said premises of the petitioner without acquiring the land in dispute either with his consent or if the petitioner is not is not willing to give his consent, initiating the legal proceedings under the due process of law. He further submits in spite of the said direction the respondents demolished the premises of the petitioner without his consent and issued a cheque for Rs.4,47,071/- towards compensation of the structures stating that they will pay the compensation of Rs.15,00,000/- within fifteen days towards the cost of the structures and the extent of land of Ac.105.27 sq. yards.

Counter has been filed stating that, in fact, the petitioner agreed by way of private negotiations to surrender his land on payment of compensation of Rs.15,00,000/- for the cost towards the structures as well as the cost of the land for an extent of 105.27 sq. yards. The said compensation was paid as per the consent of the petitioner and therefore, it is incorrect to state that no consent has been given.

I am of the opinion that insofar as the payment of compensation is concerned the value of the structures has been calculated as per the established procedure and insofar as the land is concerned the petitioner has already given consent and therefore, for the structures as well as the land the compensation of Rs.15,00,000/- has already been paid and the structures were demolished and road widening was taken up.

In view of the aforesaid facts and circumstances, I am not inclined to express any opinion with regard to the quantum of compensation. However, if the petitioner is aggrieved by the quantum of compensation with regard to the structures it is open for him to approach the appropriate forum by way of filing a civil suit. But those disputed questions of fact cannot be decided by this Court.

The writ petition is accordingly dismissed. No costs.

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V. ESWARAIAH, J

April 24, 2006

DSK